IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 1813 of 1999

For Approval and Signature:

HONOURABLE MR.JUSTICE M.R. SHAH

==========

1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

==========

BABUBHAI P VAKARIA - Petitioner(s)

Versus

POLICE INSPECTOR & 1 - Respondent(s)

==========

Appearance :

MR MC BHATT for Petitioner(s) : 1,
Ms. Archana Raval, AGP for Respondent(s) : 1 - 2.

==========

CORAM : HONOURABLE MR.JUSTICE M.R. SHAH

Date : 12/01/2006

ORAL JUDGMENT

By way of this petition under Article 226 of the Constitution of India, the petitioner has prayed for an appropriate writ, order or dirrection directing the respondents to hand over custody of original will seized by the respondent No.1, i.e. Police Inspector, 'B' Division Police Station,

Bedipara, Rajkot, as muddamal on 4.7.1988 vide Muddamal Receipt No. 174/88.

2. It is the contention on behalf of the petitioner that inspite of the fact that the original Will executed by one Bai Kankuben Devjibhai, widow of Virjibhai Patel came to be seized by the respondent No.1 Police Inspector, 'B' Division Police Station, Bedipara, Rajkot as far back as on 4.7.1988 for which even Muddamal Receipt No. 174/88 was issued and the same has not been returned to the petitioner in whose favour the Will was executed. It is the contention on behalf of the petitioner that even no criminal complaint has been filed thereafter and still the original Will which was seized has not been returned to the petitioner. No Counter and/or Affidavit-in-Reply has been filed on behalf of the respondents. Nothing has been pointed out whether subsequently any criminal proceeding has been initiated or not. Nothing has been pointed out for what purpose the original Will came to be seized. Under the circumstances, the concerned respondents are directed to return the original-Will seized by the respondent No.1 as muddamal seized on 4.7.1988 vide Receipt No. 174/88, if so far not returned and if the same is not required by the respondents for any criminal proceeding as early as possible preferably within 8 weeks from the date of receipt of this order. Rule

is made absolute accordingly, however, there will be

no order as to costs.

[M.R. Shah, J.]

RMR.